

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

X

GEORGE McMILLAN, Jr.,

Plaintiff,

-against-

NOT FOR PUBLICATION

**MEMORANDUM
AND ORDER**
06-CV-1577 (NGG)

JOHN DOE, Department Head, United States Postal Service, Headquarters; PETER CRUCIATA, Supervisor, AMF-JFK, New York; BERNARD WINECOFF, Supervisor, AMF-JFK, New York; FRANK SALZO, Supervisor, AMF-JFK, New York; NATHANIEL KEEVE, Supervisor, AMF-JFK, New York; GRACE FLOWERS, Supervisor, AMF-JFK, New York; ARDINE HARLEY, Supervisor, AMF-JFK, New York; HENRY BROWN, Superintendent, AMF-JFK, New York; JOHN DOE, Manager, Equal Employment Opportunity, Regional New York; PETER GOODWIN, Manager/Director, Employee & Labor Relations, New York; HYMAN ALTMAN, Manager, Employee & Labor Relations, AMF-JFK, New York; JEFFREY SMITH, Manager, Employee & Labor Relations, AMF-JFK, New York; THOMAS BOMAR, Counselor, Equal Employment Opportunity, Freeport, New York; JOHN DOE, Manager, Employee & Labor Relations, Flushing, New York; JOHN DOE, Manager, Employee & Labor Relations, Hempstead, New York; JOHN DOE, Manager, Employee & Labor Relations, Jamaica, New York,

Defendants.

X

GARAUFIS, United States District Judge:

On April 4, 2006, plaintiff George McMillan, Jr., residing in Brazil, filed this action *pro se* regarding his employment termination by the United States Postal Service in 1984 and his unsuccessful efforts at challenging his allegedly wrongful termination before the Equal

Employment Opportunity Commission and the Department of Labor. By order dated June 21, 2006 (the “June Order”), the Court dismissed the complaint as barred by *res judicata*. McMillan v. Doe, et al., No. 06-CV-1577 (NGG), slip op. at 4 (E.D.N.Y. June 21, 2006). The Court found that plaintiff’s complaint raised the same events and similar claims as in a prior complaint filed by plaintiff in 1994 which the Court addressed on its merits and dismissed in its entirety by order dated March 19, 1997. Id. at 3; see McMillan v. United States Postal Serv., et al., No. 94-CV-4384 (CPS), slip op. at 11 (E.D.N.Y. Mar. 19, 1997).

The Clerk of Court mailed a copy of the June Order to plaintiff’s address in Brazil, and apparently prior to plaintiff’s receipt of the dismissal order, he mailed the Court an amended complaint, which was received by the Court on June 30, 2006. Several of the named defendants in the original complaint have been deleted from the amended complaint’s caption and certain defendants have been added. Although the amended complaint provides additional allegations as to his termination, it does not affect the Court’s ruling that the instant action is barred by *res judicata*. The Court, thus, declines to vacate or reconsider the June Order.

Accordingly, the instant action is barred by *res judicata* for the reasons set forth in the June Order. The Court certifies pursuant to 28 U.S.C. §1915(a)(3) that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status is denied for the purpose of any appeal. Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

/s/
NICHOLAS G. GARAUFIS
United States District Judge

Dated: July 17, 2006
Brooklyn, New York